

AMENDED IN SENATE APRIL 27, 2009

**SENATE BILL**

**No. 509**

**Introduced by Committee on Education (Senators Romero (Chair),  
Alquist, Hancock, Huff, Liu, Maldonado, Padilla, Simitian, and  
Wyland)**

February 26, 2009

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~~An act to amend Sections 44221, 44332.5, 44421, 44422, 44426, 44830.7, 44853, 44856, 44917, 44980, 44987.3, 52127, 52163, and An~~  
*act to amend Sections 17592.5 and 52165 of the Education Code,*  
relating to education.

LEGISLATIVE COUNSEL'S DIGEST

SB 509, as amended, Committee on Education. Education.

Existing law establishes the Commission on Teacher Credentialing to issue teaching and services credentials, and to establish standards for the issuance and renewal of credentials, certificates, and permits. *Existing law authorizes 2 or more school districts to enter into a joint powers agreement, as specified, for certain purposes.*

~~This bill would update references make technical, nonsubstantive changes by updating a cross-reference to the commission. The bill would update cross-references, delete obsolete provisions, and would make other technical, nonsubstantive changes, and by deleting an obsolete reference to the Joint Powers Central County Occupational Center and replacing it with a reference to the Metropolitan Education District.~~

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     ~~SECTION 1. Section 44221 of the Education Code~~

2     ~~44221. The commission may employ such personnel as may~~  
3     ~~be necessary to carry out its duties and responsibilities. The staff~~  
4     ~~of the commission shall be subject to the relevant system and~~  
5     ~~procedures of the state civil service. The provisions of the State~~  
6     ~~Civil Service Act contained in Part 2 (commencing with Section~~  
7     ~~18500) of Division 5 of Title 2 of the Government Code shall apply~~  
8     ~~to such personnel.~~

9     ~~All such persons, other than temporary employees, serving in~~  
10    ~~the state civil service and engaged in the performance of a function~~  
11    ~~transferred to the Commission for Teacher Preparation and~~  
12    ~~Licensing or engaged in the administration of a law, the~~  
13    ~~administration of which is transferred to the commission, shall~~  
14    ~~remain in the state civil service and may request transfer to the~~  
15    ~~commission or remain with the Department of Education on the~~  
16    ~~effective date of this section. The status, position, and rights of~~  
17    ~~any such person shall not be affected by his transfer and shall~~  
18    ~~continue to be retained by him pursuant to the State Civil Service~~  
19    ~~Act, except as to positions the duties of which are vested in a~~  
20    ~~position that is exempt from civil service.~~

21    ~~SEC. 2. Section 44332.5 of the Education Code is amended to~~  
22    ~~read:~~

23    ~~44332.5. (a) A school district which may issue warrants~~  
24    ~~pursuant to Section 42647 may, at its discretion, provide for the~~  
25    ~~registration of any valid certification or other document authorizing~~  
26    ~~the holder thereof to serve in a position requiring certification~~  
27    ~~qualifications as an employee of the school district.~~

28    ~~(b) During any period when summary criminal history~~  
29    ~~information is not available from the Federal Bureau of~~  
30    ~~Investigation, no applicant for an initial credential, certificate, or~~  
31    ~~permit shall be employed in a position requiring certification~~  
32    ~~qualifications until he or she has met the minimum requirements~~  
33    ~~for a temporary certificate of clearance. A temporary certificate~~  
34    ~~of clearance or a credential, certificate, or permit authorizing~~  
35    ~~service in the public schools shall be issued when the applicant~~  
36    ~~has:~~

37    ~~(1) Made full disclosure of all facts necessary to establish his~~  
38    ~~or her true identity.~~

1     ~~(2) Made a statement under penalty of perjury that he or she~~  
2     ~~has not been convicted of a crime which would constitute grounds~~  
3     ~~for the denial of the credential, permit, or certificate applied for.~~

4     ~~An applicant shall not be required to disclose, and the Committee~~  
5     ~~of Credentials shall not inquire into or consider, any acts or~~  
6     ~~omissions not related to the applicant's fitness to teach or to~~  
7     ~~perform other duties for which he or she is certificated, or which~~  
8     ~~is related to his or her competence to perform the duties authorized~~  
9     ~~by his or her credential.~~

10    ~~(3) Paid to the Commission for Teacher Preparation and~~  
11    ~~Licensing the amount of twelve dollars (\$12) or the fees or costs~~  
12    ~~which have been or will be assessed by the Federal Bureau of~~  
13    ~~Investigation for the issuance of its summary criminal history of~~  
14    ~~the applicant when this information is once again made available~~  
15    ~~to the commission. The fees authorized by this paragraph shall be~~  
16    ~~applicable to all credentials, permits, and certificates which were~~  
17    ~~applied for or issued after October 1, 1981.~~

18    ~~(e) Upon receipt of a statement from the Federal Bureau of~~  
19    ~~Investigation that it has no summary criminal history information~~  
20    ~~on the applicant, or upon receipt of the summary criminal history~~  
21    ~~information and clearance by the Committee of Credentials, a~~  
22    ~~temporary certificate of clearance shall be converted to a regular~~  
23    ~~certificate of clearance.~~

24    ~~SEC. 3. Section 44421 of the Education Code is amended to~~  
25    ~~read:~~

26    ~~44421. The Commission for Teacher Preparation and Licensing~~  
27    ~~shall privately admonish, publicly reprove, revoke or suspend for~~  
28    ~~immoral or unprofessional conduct, or for persistent defiance of,~~  
29    ~~and refusal to obey, the laws regulating the duties of persons~~  
30    ~~serving in the public school system, or for any cause which would~~  
31    ~~have warranted the denial of an application for a credential or the~~  
32    ~~renewal thereof, or for evident unfitness for service.~~

33    ~~SEC. 4. Section 44422 of the Education Code is amended to~~  
34    ~~read:~~

35    ~~44422. Whenever the holder of any credential issued by the~~  
36    ~~State Board of Education or the Commission for Teacher~~  
37    ~~Preparation and Licensing is charged with immoral or~~  
38    ~~unprofessional conduct or evident unfitness for service or persistent~~  
39    ~~defiance of, and refusal to obey, the laws regulating the duties of~~  
40    ~~his position, the commission in its discretion after notifying the~~

1 ~~person charged of its intention to do so, may require the county~~  
2 ~~board of education of the county in which he is serving or has last~~  
3 ~~served to give notice of, and conduct, a hearing of the charges in~~  
4 ~~the manner prescribed by law for the hearing of charges for private~~  
5 ~~admonition, or for the revocation or suspension of a certificate by~~  
6 ~~a county board of education.~~

7 ~~The county board of education, after the hearing, shall report to~~  
8 ~~the commission its findings, and a summary of the evidence, and~~  
9 ~~shall make a definite recommendation concerning the revocation~~  
10 ~~or suspension of the credential.~~

11 ~~Upon receipt of a copy of the findings, summary of evidence,~~  
12 ~~and recommendation, the commission may privately admonish the~~  
13 ~~holder of the credential, or suspend or revoke the credential for~~  
14 ~~the causes stated, or order the charges dismissed.~~

15 ~~SEC. 5. Section 44426 of the Education Code is amended to~~  
16 ~~read:~~

17 ~~44426. Whenever the holder of any credential issued by the~~  
18 ~~State Board of Education or the Commission for Teacher~~  
19 ~~Preparation and Licensing has been determined to be a sexual~~  
20 ~~psychopath under the provisions of Article 1 (commencing with~~  
21 ~~Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare~~  
22 ~~and Institutions Code or under similar provisions of law of any~~  
23 ~~other state, the commission shall forthwith suspend the credential.~~  
24 ~~If the determination is reversed and the holder is determined not~~  
25 ~~be a sexual psychopath in a new proceeding or the proceeding to~~  
26 ~~determine whether he is a sexual psychopath is dismissed, the~~  
27 ~~commission shall forthwith terminate the suspension of the~~  
28 ~~credential. When the determination becomes final, the commission~~  
29 ~~shall forthwith revoke the credential.~~

30 ~~SEC. 6. Section 44830.7 of the Education Code is amended to~~  
31 ~~read:~~

32 ~~44830.7. Every contract for employment for a position requiring~~  
33 ~~certification qualifications between a school district governing~~  
34 ~~board and a person who possesses certification qualifications from~~  
35 ~~another state shall provide that employment shall terminate upon~~  
36 ~~notice by the Commission for Teacher Preparation and Licensing~~  
37 ~~to the district and the employee, that the employee does not have~~  
38 ~~the necessary qualifications for the credential required by law for~~  
39 ~~the position for which the service was rendered.~~

1     ~~SEC. 7. Section 44853 of the Education Code is amended to~~  
2     ~~read:~~

3     ~~44853. The governing board of any school district, subject to~~  
4     ~~the rules and regulations prescribed by the State Board of~~  
5     ~~Education, may enter into an agreement with the proper authorities~~  
6     ~~of any foreign country, or of any state, territory, or possession of~~  
7     ~~the United States, or other district within the state, for the exchange~~  
8     ~~and employment of regularly credentialed employees and~~  
9     ~~employees of public schools of any foreign country, state, territory,~~  
10    ~~or possession, or other district within this state. Any certificated~~  
11    ~~person so employed as provided in this section shall be known as~~  
12    ~~an “exchange certificated employee.” No exchange shall be made~~  
13    ~~without the consent of the employee to be exchanged.~~

14    ~~Due consideration shall be given to the general qualifications~~  
15    ~~and professional status of the exchange employee as compared to~~  
16    ~~the general qualifications and professional status of the employee~~  
17    ~~for whom exchanged. However, it shall not be a requirement that~~  
18    ~~an exchange certificated employee be a teacher of the same subject~~  
19    ~~or grade, or both, as the employee for whom exchanged. If the~~  
20    ~~service authorized is other than teaching, it shall not be a~~  
21    ~~requirement that the service be at the same grade level or that the~~  
22    ~~service be exactly the same as the employee for whom exchanged.~~

23    ~~No~~  
24    ~~person may be employed as an exchange employee by a school~~  
25    ~~district in the state unless he holds the necessary valid credential~~  
26    ~~or credentials issued by the Commission for Teacher Preparation~~  
27    ~~and Licensing authorizing him to serve in a position requiring~~  
28    ~~certification qualifications in the school district proposing to~~  
29    ~~employ him. The commission may establish minimum standards~~  
30    ~~for the credentials for exchange certificated employees, provided~~  
31    ~~however, that no exchange certificated employee shall be required~~  
32    ~~to pay any fee or other charge for the issuance to him of any~~  
33    ~~necessary valid credential or credentials authorizing him to serve~~  
34    ~~in a position requiring certification qualifications in any school~~  
35    ~~district in this state.~~

36    ~~An exchange agreement may be made for a period not to exceed~~  
37    ~~three years.~~

38    ~~At the end of the assignment period, the exchange, with the~~  
39    ~~consent of all parties, may be made complete and permanent.~~

1     ~~SEC. 8. Section 44856 of the Education Code is amended to~~  
2     ~~read:~~

3     ~~44856. The governing board of a school district may, for the~~  
4     ~~purposes of providing bilingual instruction, foreign language~~  
5     ~~instruction, or cultural enrichment, in the schools of the district,~~  
6     ~~subject to the rules and regulations of the State Board of Education~~  
7     ~~conclude arrangements with the proper authorities of any foreign~~  
8     ~~country, or of any state, territory, or possession of the United~~  
9     ~~States, for the hiring of bilingual teachers employed in public or~~  
10    ~~private schools of any foreign country, state, territory, or~~  
11    ~~possession. To be eligible for employment the teacher must speak~~  
12    ~~English fluently. Any persons so employed pursuant to this section~~  
13    ~~shall be known as a “sojourn-certificated employee.”~~

14    ~~No~~  
15    ~~person may be hired as a sojourn certificate employee by a school~~  
16    ~~district unless he holds the necessary valid credential or credentials~~  
17    ~~issued by the Commission for Teacher Preparation and Licensing~~  
18    ~~authorizing him to serve in a position requiring certification~~  
19    ~~qualifications in the school district proposing to employ him. Such~~  
20    ~~person may be employed only for a period not to exceed two years;~~  
21    ~~except that thereafter such period of employment may be extended~~  
22    ~~from year to year for a total period of not more than five years~~  
23    ~~upon verification by the employing district that termination of such~~  
24    ~~employment would adversely affect an existing bilingual or foreign~~  
25    ~~language program or program of cultural enrichment and that~~  
26    ~~attempts to secure the employment of a certificated California~~  
27    ~~teacher qualified to fill such position have been unsuccessful. The~~  
28    ~~commission shall establish minimum standards for the credentials~~  
29    ~~for sojourn-certificated employees.~~

30    ~~SEC. 9. Section 44917 of the Education Code is amended to~~  
31    ~~read:~~

32    ~~44917. Except as provided in Sections 44888 and 44920,~~  
33    ~~governing boards of school districts shall classify as substitute~~  
34    ~~employees those persons employed in positions requiring~~  
35    ~~certification qualifications, to fill positions of regularly employed~~  
36    ~~persons absent from service.~~

37    ~~After September 1 of any school year, the governing board of~~  
38    ~~any school district may employ, for the remainder of the school~~  
39    ~~year, in substitute status any otherwise qualified person who~~  
40    ~~consents to be so employed in a position for which no regular~~

1 employee is available, including persons retired for service under  
2 the State Teachers' Retirement System. Inability to acquire the  
3 services of a qualified regular employee shall be demonstrated to  
4 the satisfaction of the Commission for Teacher Preparation and  
5 Licensing.

6 Any person employed for one complete school year as a  
7 temporary employee shall, if reemployed for the following school  
8 year in a position requiring certification qualifications, be classified  
9 by the governing board as a probationary employee and the  
10 previous year's employment as a temporary employee shall be  
11 deemed one year's employment as a probationary employee for  
12 purposes of acquiring permanent status.

13 SEC. 10. Section 44980 of the Education Code is amended to  
14 read:

15 44980. Any certificated employee of any school district who  
16 accepts a position requiring certification qualifications in the office  
17 of any county superintendent of schools; or, any certificated  
18 employee of any county superintendent of schools who accepts a  
19 position requiring certification qualifications in a school district  
20 or office of another county superintendent of schools; or, any  
21 person employed by the State Department of Education in a  
22 position requiring certification qualifications or an employee of  
23 the office of the Chancellor of the California Community Colleges  
24 who accepts a position requiring certification qualifications in any  
25 school district or office of any county superintendent of schools;  
26 or, any certificated employee of the Commission for Teacher  
27 Preparation and Licensing who accepts a position requiring  
28 certification qualifications in any school district or office of any  
29 county superintendent of schools; shall have transferred with him  
30 to the second position his accumulated leave of absence for illness  
31 or injury. The amount of such leave to be transferred shall be  
32 determined in the same manner as provided in Section 44979. All  
33 other provisions of Section 44979 shall also apply to the employees  
34 and employers described in this section.

35 SEC. 11. Section 44987.3 of the Education Code is amended  
36 to read:

37 44987.3. (a) The governing board of a school district shall  
38 grant to any employee, upon request, a leave of absence without  
39 loss of any compensation for the purpose of enabling such  
40 employee to serve on any of the following boards, commissions,

1 committees, or groups, so long as the requirements of subdivision  
2 (b) are satisfied:

3 (1) ~~Advisory Commission on Special Education, as provided~~  
4 ~~for by Section 33590.~~

5 (2) ~~Advisory Committee for Child Care, as provided for by~~  
6 ~~Chapter 2 (commencing with Section 8200) of Part 6.~~

7 (3) ~~California Advisory Council on Vocational Education, as~~  
8 ~~provided for by Section 8000.~~

9 (4) ~~California Commission on Crime Control and Violence~~  
10 ~~Prevention, as provided for by Section 14101 of the Penal Code.~~

11 (5)  
12 ~~Curriculum Development and Supplemental Materials~~  
13 ~~Commission, as provided for by Section 33530.~~

14 (6)  
15 ~~Educational Innovation and Planning Commission, as provided~~  
16 ~~for by Section 33502.~~

17 (7)  
18 ~~Educational Management and Evaluation Commission, as~~  
19 ~~provided for by Section 33550.~~

20 (8) ~~Equal Educational Opportunities Commission, as provided~~  
21 ~~for by Section 33570.~~

22 (9) ~~Instructional Television Advisory Commission, as provided~~  
23 ~~for by Sections 51872 and 51873.~~

24 (10) ~~State Council of Educational Planning and Coordination,~~  
25 ~~as provided for by Section 21000.~~

26 (11)  
27 ~~Any other group, commission, or board authorized by statute;~~  
28 ~~or commission or board, any of whose members are appointed by~~  
29 ~~the Governor or the State Board of Education; whose purposes~~  
30 ~~and activities are to further public education, exclusive of the~~  
31 ~~Commission for Teacher Preparation and Licensing.~~

32 (b) ~~A leave of absence shall not be granted unless all the~~  
33 ~~following requirements are satisfied:~~

34 (1) ~~Service is performed in the State of California.~~

35 (2) ~~The board, commission, committee, or group, in writing,~~  
36 ~~informs the employee's district of such service.~~

37 (3) ~~The board, commission, committee, or group agrees, prior~~  
38 ~~to service, to reimburse the school district pursuant to subdivision~~  
39 ~~(d).~~



1     ~~(e) The leave of absence shall be limited to 20 school days per~~  
2 ~~school year.~~

3     ~~(d) Following the school district's payment of the employee for~~  
4 ~~such leave of absence, the school district shall be reimbursed by~~  
5 ~~the board, commission, committee, or group which the employee~~  
6 ~~serves for the compensation paid to the employee's substitute and~~  
7 ~~for actual administrative costs related to the leave of absence~~  
8 ~~granted to the employee under this section, upon written request~~  
9 ~~for such reimbursement by the school district. Reimbursement by~~  
10 ~~the board, commission, committee, or group shall be made within~~  
11 ~~10 days after its receipt of the school district's certification of~~  
12 ~~payment of compensation to the employee and of payment of~~  
13 ~~compensation to the employee's substitute.~~

14     ~~(e) The leave of absence without loss of compensation provided~~  
15 ~~for by this section is in addition to the release time without loss of~~  
16 ~~compensation granted to representatives of an exclusive~~  
17 ~~representative by subdivision (c) of Section 3543.1 of the~~  
18 ~~Government Code and the leave of absence granted employees by~~  
19 ~~Section 44987.~~

20     ~~(f) As used in this section, "school district" also means a county~~  
21 ~~superintendent of schools.~~

22     ~~SEC. 12. Section 52127 of the Education Code is amended to~~  
23 ~~read:~~

24     ~~52127. (a) As a condition to receiving any apportionment~~  
25 ~~pursuant to Section 51726, school districts shall have a staff~~  
26 ~~development program that requires any certificated teacher who~~  
27 ~~will provide direct instructional services for a class participating~~  
28 ~~in the school district's class size reduction program to receive the~~  
29 ~~appropriate training necessary to maximize the educational~~  
30 ~~advantages of class size reduction. This training shall include, but~~  
31 ~~not be limited to, methods for providing each of the following:~~

32     ~~(1) Individualized instruction.~~

33     ~~(2) Effective teaching, including classroom management, in~~  
34 ~~smaller classes.~~

35     ~~(3) Identifying and responding to pupil needs.~~

36     ~~(4) Opportunities to build on the individual strengths of pupils.~~

37     ~~(b) School districts may use funds currently received for staff~~  
38 ~~development or funds received under this chapter to meet the~~  
39 ~~requirements of this section.~~

1     ~~SEC. 13.— Section 52163 of the Education Code is amended to~~  
2     ~~read:~~

3     ~~52163.— Unless the context otherwise requires, the definitions~~  
4     ~~set forth in this section shall govern the construction of this article.~~

5     ~~(a) “Basic bilingual education” is a system of instruction which~~  
6     ~~builds upon the language skills of the pupil and which consists of,~~  
7     ~~but is not limited to, all of the following:~~

8     ~~(1) A structured English language development component with~~  
9     ~~daily instruction leading to the acquisition of English language~~  
10    ~~proficiency, including English reading and writing skills.~~

11    ~~(2) A structured primary language component with daily basic~~  
12    ~~skills instruction in the primary language for the purpose of~~  
13    ~~sustaining achievement in basic subject areas until the transfer to~~  
14    ~~English is made.~~

15    ~~As the pupil develops English language skills, the amount of~~  
16    ~~instruction offered through English shall increase.~~

17    ~~(b) “Bilingual-bicultural education” is a system of instruction~~  
18    ~~which uses two languages, one of which is English, as a means of~~  
19    ~~instruction. It is a means of instruction which builds upon and~~  
20    ~~expands the existing language skills of each participating pupil,~~  
21    ~~which will enable the pupil to achieve competency in both~~  
22    ~~languages.~~

23    ~~This instruction shall include all of the following:~~

24    ~~(1) Daily instruction in English language development which~~  
25    ~~shall include:~~

26    ~~(A) Listening and speaking skills.~~

27    ~~(B) Reading and writing skills; formal instruction in reading~~  
28    ~~and writing of English shall be introduced when appropriate criteria~~  
29    ~~are met.~~

30    ~~(2) Language development in the pupil’s primary language,~~  
31    ~~including oral and literacy skills.~~

32    ~~(3) Reading in the pupil’s primary language.~~

33    ~~(4) Selected subjects taught in the pupil’s primary language.~~

34    ~~(5) Development of an understanding of the history and culture~~  
35    ~~of California and the United States, as well as an understanding~~  
36    ~~of customs and values of the cultures associated with the languages~~  
37    ~~being taught.~~

38    ~~(c) (1) “Experimental bilingual programs” are:~~

39    ~~(A) Innovative programs which are consistent with the~~  
40    ~~provisions of this article, the requirements for bilingual teaching~~

1 personnel pursuant to Section 52165, and the requirements for  
2 English language and primary language development pursuant to  
3 this section. Such programs may include new management  
4 approaches, greater emphasis on team teaching, or other appropriate  
5 improvements which expand the learning opportunities of pupils  
6 of limited English proficiency. Unless waivers of code sections  
7 are required, projects approval of the board is not required. A  
8 description of each such innovative program shall be included with  
9 the consolidated application for program funding and an annual  
10 evaluation of such programs shall be included in the  
11 multiple-funded program evaluation required pursuant to Section  
12 33403.

13 (B) Planned variation programs for the purpose of comparing  
14 and improving language development programs for pupils of  
15 limited English proficiency. A primary focus shall be on  
16 appropriate instruction for pupils of limited English proficiency  
17 whose English skills are superior to their skills in their primary  
18 language.

19 A focus may also be placed upon situations in which the number  
20 of pupils who, in accordance with Section 52165, would be  
21 required to receive instruction pursuant to subdivision (a) or (b)  
22 of Section 52163, is substantially smaller than the census indicated  
23 for the previous year, in which case all pupils of limited English  
24 proficiency shall receive instruction through individual learning  
25 programs during the preparation of the district's proposal and the  
26 consideration of the proposal by the board. Such programs shall  
27 be authorized by the board in up to 300 classrooms in 1982-83  
28 and up to 700 classrooms in 1983-84 and each school year  
29 thereafter in districts which are representative of the state both  
30 geographically and by size. Not more than 30 such classrooms in  
31 1982-83 and 50 classrooms in 1983-84, which may or may not  
32 be in another school, shall be approved in any one district. Such  
33 programs shall not result in segregation. For districts proposing a  
34 planned variation program, the staffing requirements of Section  
35 52165 may be partially or totally waived by the board provided  
36 that the district has an inadequate number of certified bilingual  
37 teachers, that certified bilingual teachers are not replaced, that  
38 present level of effort is not reduced, and that the proposed  
39 language development program is appropriate. For each  
40 participating classroom there shall be another similar classroom

1 in the district which has fully implemented and is in compliance  
2 with the other provisions of this article.

3 (2) ~~Proposals for planned variation programs shall include, but~~  
4 ~~need not be limited to:~~

5 (A) ~~A clear statement of the purposes, goals, and objectives for~~  
6 ~~planned variation programs and projected outcomes.~~

7 (B) ~~A delineated management, staffing, and instructional plan.~~

8 (C) ~~Pupil identification, diagnosis, and assessment procedures.~~

9 (D) ~~Evidence of qualified bilingual and other instructional staff~~  
10 ~~with demonstrated competence in language development, bicultural~~  
11 ~~or multicultural knowledge of participating pupils, and instructional~~  
12 ~~methodologies.~~

13 (E) ~~Documented parent and community participation and~~  
14 ~~support.~~

15 (F) ~~Use of state and federal funding, where applicable.~~

16 (G) ~~Evaluation component which controls for instructional~~  
17 ~~treatments, instructional engaged time, staffing, pupil language~~  
18 ~~characteristics, achievement, attendance, and related data.~~

19 (H) ~~For purposes of this subdivision, if formal action upon a~~  
20 ~~proposal for a planned variation program is not taken by the State~~  
21 ~~Board of Education on or before the second regular meeting of the~~  
22 ~~board following the receipt of a complete and documented~~  
23 ~~proposal, the proposal shall be deemed approved for the remainder~~  
24 ~~of the school year.~~

25 ~~Proposals which meet the requirements of this subdivision shall~~  
26 ~~be approved by the board in accordance with standards established~~  
27 ~~in subdivision (b) of Section 52820.~~

28 ~~Proposals may be approved annually for a second, third, or fourth~~  
29 ~~year based upon a demonstration of compliance with planned~~  
30 ~~variation program requirements.~~

31 (3) ~~The department shall include in its annual report to the~~  
32 ~~Legislature submitted pursuant to Sections 33405 and 52171.6 the~~  
33 ~~number and nature of experimental bilingual and planned variation~~  
34 ~~programs and progress of participating pupils.~~

35 (4) ~~Nothing contained in this subdivision shall be construed to~~  
36 ~~permit the operation of experimental bilingual and planned~~  
37 ~~variation programs contrary to the purposes or intent of this article~~  
38 ~~and other state or federal statutes and regulations promulgated for~~  
39 ~~and on behalf of pupils of limited English proficiency. The primary~~  
40 ~~goal of all such programs shall be to teach the pupil English.~~

(d) ~~“Secondary level language development program” is a program in grades 7 to 12 which provides a prescriptive English language program that systematically develops a pupil’s listening and speaking skills, knowledge of linguistic and grammatical structure leading to proficiency in reading and writing English. The prescriptive English language program shall be based on the diagnosis of a pupil’s language skills pursuant to Sections 52164 and 52164.1 and shall be conducted as an integral instructional program of English curriculum for not less than one full period a day or its equivalent for the purpose of providing pupils with minimum English language competencies pursuant to subdivision (e). The primary goal of such programs shall be to teach pupils the English language.~~

~~In addition to the prescriptive English language program required by this subdivision, a secondary level language development program shall provide primary language instructional support to sustain academic achievement in nonelective content subject areas required for high school graduation consistent with current law.~~

~~Instruction in a secondary level language development program shall be provided either by a language development specialist, or by a certified bilingual-crosscultural teacher, who has received the recommendation of the local superintendent of schools verifying in writing that the teacher is competent and qualified to teach an English-as-a-second-language component, as measured by the district’s personnel evaluation system.~~

~~School districts offering an instructional program pursuant to this subdivision shall not be required to provide a secondary level individual learning program, as defined in subdivision (c), but shall be required to maintain records documenting all parental notices and of the continuing evaluation of pupil needs and services.~~

~~A school district may make a secondary level language development program available to pupils enrolled in grade 6 whenever that grade is maintained by the district in a middle school comprised of any of grades 6, 7, 8, or 9.~~

(e) ~~“Secondary level individual learning program” is an individualized systematic program of instruction which meets the needs of limited-English-proficient pupils and builds upon their language skills in order to develop proficiency in English. This program shall be offered in a manner consistent with the United~~

1 States Supreme Court decision in *Lau vs. Nichols* (414 U.S. 563);  
2 the Equal Education Opportunities Act of 1974 (20 U.S.C. Sec.  
3 1701 et seq.) and federal regulations promulgated pursuant to such  
4 court decisions and federal statutes. The primary goal of all such  
5 programs shall be to teach the pupil English.

6 (f) ~~“Elementary level individual learning program” is any~~  
7 ~~program of instruction for a pupil of limited English proficiency~~  
8 ~~in which any one of the three program options described in~~  
9 ~~subdivision (a), (b), or (c) is individualized to meet the needs of~~  
10 ~~the pupil of limited English proficiency and is offered in a manner~~  
11 ~~consistent with the requirements of this article. Such instruction~~  
12 ~~shall be offered in a manner consistent with the United States~~  
13 ~~Supreme Court decision in *Lau v. Nichols* (414 U.S. 563), the~~  
14 ~~Equal Educational Opportunities Act of 1974 (20 U.S.C. Sec. 1701~~  
15 ~~et seq.), and federal regulations promulgated pursuant to such court~~  
16 ~~decisions and federal statutes. The primary goal of all such~~  
17 ~~programs shall be to teach the pupil English.~~

18 (g) ~~“Primary language” is a language other than English which~~  
19 ~~is the language the pupil first learned or the language which is~~  
20 ~~spoken in the pupil’s home.~~

21 (h) ~~“Bilingual-crosscultural teacher” means a person who (1)~~  
22 ~~holds a valid, regular California teaching credential and (2) holds~~  
23 ~~either a bilingual-crosscultural certificate of proficiency or other~~  
24 ~~credential in bilingual education authorized by the Commission~~  
25 ~~for Teacher Preparation and Licensing or a bilingual-crosscultural~~  
26 ~~specialist credential. Such a person shall be fluent in the primary~~  
27 ~~language and familiar with the cultural heritage of~~  
28 ~~limited-English-proficiency pupils in the bilingual classes he or~~  
29 ~~she conducts. Such a person shall have a professional demonstrated~~  
30 ~~working knowledge of the methodologies which are necessary to~~  
31 ~~educate effectively those pupils.~~

32 (i) ~~“Bilingual-crosscultural teacher aide” means an aide fluent~~  
33 ~~in both English and the primary language of the pupil or pupils of~~  
34 ~~limited-English-proficiency in a bilingual-bicultural program. Such~~  
35 ~~an aide shall be familiar with the cultural heritage of pupils of~~  
36 ~~limited-English-proficiency in the bilingual classes to which he or~~  
37 ~~she is assigned.~~

38 (j) ~~“Board” means the State Board of Education.~~

39 (k) ~~“Superintendent” means the Superintendent of Public~~  
40 ~~Instruction.~~

1 (l) “Basic skills” means language arts, including, but not limited  
2 to, reading and writing, and mathematics.

3 (m) ~~“Pupils of limited English proficiency” are pupils who do~~  
4 ~~not have the clearly developed English language skills of~~  
5 ~~comprehension, speaking, reading, and writing necessary to receive~~  
6 ~~instruction only in English at a level substantially equivalent to~~  
7 ~~pupils of the same age or grade whose primary language is English.~~  
8 ~~The determination of which pupils are pupils of limited English~~  
9 ~~proficiency shall be made in accordance with the procedures~~  
10 ~~specified in Sections 52164 and 52164.1. Pupils who have no~~  
11 ~~proficiency in their primary language are not included within this~~  
12 ~~definition.~~

13 (n) ~~“Pupils of fluent English proficiency” are pupils whose~~  
14 ~~English proficiency is comparable to that of the majority of pupils,~~  
15 ~~of the same age or grade, whose primary language is English.~~

16 (o) ~~“Department” means the Department of Education.~~

17 *SECTION 1. Section 17592.5 of the Education Code is amended*  
18 *to read:*

19 17592.5. The Joint Powers Southern California Regional  
20 Occupational Center and the ~~Joint Powers Central County~~  
21 ~~Occupational Center Metropolitan Education District, a joint~~  
22 ~~powers authority,~~ shall be deemed to be school districts for  
23 purposes of Sections 17582 to 17592, inclusive, and for the  
24 purposes of Section 17584.

25 ~~SEC. 14.~~

26 *SEC. 2.* Section 52165 of the Education Code is amended to  
27 read:

28 52165. Each pupil of limited English proficiency enrolled in  
29 the California public school system in kindergarten and grades 1  
30 to 12, inclusive, shall receive instruction in a language  
31 understandable to the pupil that recognizes the pupil’s primary  
32 language and teaches the pupil English.

33 (a) In kindergarten and grades 1 to 6, inclusive, the following  
34 shall apply:

35 (1) If the language census indicates that any school of a school  
36 district has 10 or more pupils of limited English proficiency with  
37 the same primary language in the same grade level or 10 or more  
38 pupils of limited English proficiency with the same primary  
39 language, in the same age group, and in a multigrade or ungraded  
40 instructional environment, the school district shall offer instruction

1 pursuant to subdivision (a), (b), or (c) of Section 52163 for those  
2 pupils at the school. If there are pupils of limited English  
3 proficiency with different primary languages who do not otherwise  
4 satisfy the program requirements of subdivision (a), (b), or (c) of  
5 Section 52163 or of this subdivision, a language development  
6 specialist defined in subdivision (b) may be used.

7 (2) To the extent state or federal categorical funds are available,  
8 the services, as described in this paragraph, are required for pupils  
9 of limited English proficiency in concentrations of fewer than 10  
10 per grade level. If there are fewer than 10 pupils of limited English  
11 proficiency in the same grade, but at least 20 pupils of limited  
12 English proficiency in the school with the same primary language,  
13 the school district shall provide at least one certified  
14 bilingual-crosscultural teacher or teachers on waiver as defined in  
15 Section 52178 or 52178.5 and an individualized instruction  
16 program as defined in subdivision (f) of Section 52163 for those  
17 pupils at the school. If the number of pupils of limited English  
18 proficiency in the school exceeds 45, the district shall provide two  
19 of those teachers. These teachers may be used as resource teachers  
20 or team teachers or to provide any other services to pupils of  
21 limited English proficiency as the district deems appropriate. These  
22 teachers shall be different teachers than those required pursuant  
23 to paragraph (1).

24 (b) The Legislature recognizes that in the past equal educational  
25 opportunities have not been fully available to secondary pupils of  
26 limited English proficiency. It is the intent of the Legislature to  
27 encourage school districts to offer a language learning program  
28 pursuant to subdivision (d) of Section 52163. Certified  
29 bilingual-crosscultural teachers or, if those teachers are not  
30 available, language development specialists assisted by a bilingual  
31 aide shall be qualified to provide instruction for those programs.  
32 Language development specialists shall be formally trained and  
33 competent in the field of English language learning, including  
34 second language acquisition and development, structure of modern  
35 English, and basic principles of linguistics, and shall meet the  
36 culture and methodology competencies established by subdivisions  
37 (b) and (c) of Section 44253.5. The Commission on Teacher  
38 Credentialing shall provide for the assessment of language  
39 competencies specified in this section and shall modify existing  
40 culture and methodology competency for language development



1 specialist to ensure that they meet the crosscultural and  
2 instructional methodologies for pupils being served by those  
3 teachers. A teacher of English to speakers of other languages  
4 certificate from a commission-approved teacher training institution  
5 of higher education that meets the criteria established by the  
6 commission pursuant to Section 44253.5 shall be accepted instead  
7 of the methodology requirement.

8 (c) In kindergarten and grades 1 to 12, inclusive, pupils of  
9 limited English proficiency who are not enrolled in a program  
10 described in subdivision (a), (b), (c), or (d) of Section 52163, shall  
11 be individually evaluated and shall receive educational services  
12 defined in subdivision (e) or (f), as appropriate, of Section 52163.  
13 These services shall be provided in consultation with the pupil and  
14 the parent, parents, or guardian of the pupil.

15 (d) As a part of its consolidated application for categorical  
16 program funds, each district receiving those funds shall include a  
17 specific plan indicating the ways in which the individual learning  
18 plans will meet the needs of pupils of limited English proficiency.  
19 The plan shall describe all of the following:

20 (1) Procedures used in making the individual evaluation.

21 (2) The pupils' levels of English and primary language  
22 proficiency and levels of educational performance.

23 (3) Instructional objectives and scope of educational services  
24 to be provided.

25 (4) Periodic evaluation procedures, using objective criteria, to  
26 determine whether the instructional objectives are being met.